

IN The District Court Of Harrison County, Mississippi
Southern District.

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Armstrong J. Knight.

Plaintiff

v.

Action no. 1:05-cv-00186-LG-JMR

George Payne et al.

Defendant's

Motion
of Reconsideration

SOUTHERN DISTRICT OF MISSISSIPPI	
FILED	
JUL 28 2005	
BY	J. T. NOBLIN, CLERK
DEPUTY	

Comes Now, plaintiff, Armstrong Knight in the above action, to

Respectfully request this Honorable Court to reconsider his before made decision to deny the plaintiff his request for appointment of Counsel for this cause, dated on July 18th 2005, being a motion to appoint Counsel pursuant to 28.U.S.C. § 1915 (e) (1)

The Plaintiff would now show the Court the following to-wit:

I

The plaintiff produces to the Court that he is originally from Sacramento California, He came to Mississippi only to visit when he was arrested. ~~prior~~ prior to arrest he was only here for approx 1 1/2 Month(s), he does not, and has not had any family in the state of Mississippi, with the exception of a Sister now, but we do not speak to each other. the significance is, that all and any issues needed to be pursued, here in this state, will have to be done by me, because the plaintiff does not have individuals to depend on for assistance.

II

The plaintiff would reassert the fact that he does not have access to a law library or any person(s) trained in law. See (ex A-1) the facility he is incarcerated in does not provide him with any Case law(s), Legal review book's, Litigation manual's nor any Miss. Code ann statutes. He does not receive any assistance from the facility in regard's to legal material whatsoever.

To emphasize how this is destructive to his claim, shows following:

- A.) The means of access to legal material is provided via mail to a state facility see (ex B) legal request form, any person utilizing this avenue must already know what Case law, miss. Code, statute ect: Is wanted before ordering, using this means they do not

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Provide any review or table of content's for such law or code. the maximum amount of item's, regardless of type, that can be ordered is (10) ten. Once weekly.

B.) The plaintiff is currently engaged in two civil action's with this court. he is also engaged with a post-conviction collateral relief in state court and prospectively two separate bar complaint's. A conflict is caused because all three (3) (one, post-conviction collateral relief, two, civil action regarding property, three, civil action involving unconstitutional condition's while incarcerated.) require separate case law, code, statute and different kind of legal application, and that being stated, the plaintiff only being allowed to order ten

item's a week must divide ten request between the separate issue's causing extended delay to a complete understanding, notwithstanding the fact that this process is not really consistent due to the fact that there are plenty of time's that submitted request go unresponded, and at all time's the reply to request take apart two to three week's to return. so even though issue's of law may be clear regarding issue's to the issue at hand, the plaintiff's ability to find and cite and order with receiving are seriously hindered and prejudice's him. especially since he is not provided the help of person's trained in law and not given any avenue that allows him broad review to see and understand civil procedure, criminal procedure, nor any litigation manual's to let him understand how to properly conduct discovery, apply a correct defensive argument or apply a correct legal argument and standard.

This suit was brought because the action's taken against the plaintiff were unconstitutional and in need of assessment the plaintiff will need adequate time to pursue defense's and or proceed correctly which will cause unnecessary or undue delay with this action and an attorney would assure no delay and proceedings occurred with correct legal standard with unimpeded access to the law, the same way the defendant's have it.

III

The plaintiff proceed's aside from the above would display, an already prejudice, that he does not have any of the case law cited within the court's motion to deny the plaintiff's request and he understand's that he only has ten (10) day's to assert this motion of reconsideration

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So there being no way to order and await the return of the Case law's or Case law's he Could use to his benefit, he has no Case law to assert his position. as well the Court's own motion Case law Could present a claim by Contrary, the plaintiff is herein without a defense that he Could show the Court that may persuade his Hon John M. Roper to reconsider his previous decision. but the plaintiff will in light of the Court's motion try to show how he fits the Criteria for appointment of Counsel, but not as a right.

IV

As seen in the Court's motion using standard of *Ulmer v. Chancellor*, 691 F.2d. 209, 212 (5th Cir 1982) The Plaintiff shows the following:

A.) type and complexity of the case..

The type of Case as known to the Court Is numerous different areas of unconstitutional housing Condition's, ranging from deprivation of property to being abused and shot with a potentially deadly weapon. different defendant's numbering more than (15) Fifteen.

The Complexity being a serious issue, does not ~~ever~~ begin and end at the fact that area's of law are clear and concise to my specific allegation's. Issue's are at hand that cause it to be complex. The Current stance of this case cause's multiple different avenue's of litigation where as the plaintiff is obviously incarcerated and it hinders his ability to be able to interview defendant's and other witnesses. (2) The defendant's are not the only people involved. There are multiple people not named as a defendant who were witnesses to fact's or otherwise a vital part of the case, such person's were inmate's in the jail at the time who now are either released, or Incarcerated in prison, other's are officer's and otherwise staff in the jail at the time who do and now do not work at the facility. these person's need to be contacted so

Their eye-witness account's can be displayed. (3) The necessary paper work required to establish whether or not individual's were acting according to procedure, which very well could show they had not, such as policy's procedure, standard's may be available from independent source whereas it is not incorporated with the jail's Guideline require's at least someone on the outside to retrieve. (4) having the knowledge of what to secure in evidence to present the claim. (5) The fact that in light of litigation, the jail's policy and procedure will be introduced

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Considering the conditions of the jail, those policy's and procedure may very well be unconstitutional and need to be addressed within themselves. Causing a complexity. which the plaintiff does not doubt at all. As well a number of other issues, outside of clear legal laws often cited in 1983 case's.

B.) indigent able to adequately present the case.

In all regard's, of the specific prong's outlined in "Ulmer v. Chancellor" this prong may be the only prong the plaintiff is not so disadvantaged. because he continually learns the law he will eventually become sufficient to display his case to whom it may become necessary. only in the presentation thereof. his indigency is still a issue that hinders his ability to have facts, circumstance's to present, due to the fact that in the course of creating his case, of course it cost money. he does not have any. so where it may cost to establish some type of material he will fall short which will prejudice presenting the case. and the factor's stated here will cause his case to not be presented adequately.

C.) Weather indigent is in position to investigate adequately the case.

The plaintiff is at severe disadvantage to investigate the case, in part because he does not have any money, and he live's alone in mississippi. he could not adequately investigate any avenue which seriously prejudices his claim. A case such as his require's at least a minimum of a expert of functioning's of institution's, which the plaintiff cannot afford. also expert on use of Rubber bullet gun and other tactical weapon's, which the plaintiff in both respects are unable to contact and interview nor pay any fee's. As well (2) the jail house staff who no longer work at the jail need to be pursued and contacted, they will substantiate the claim's by eye-witness account. the plaintiff does not have the fund's nor any person to help him herein (2) the numerous inmate witnesses who are now in other prison's, which require's interview, contact, disposition's taken, the plaintiff does not anyone to contact or otherwise contact and interview in the course of disposition taking and does not have the fund's to pay for them. As well it is a standing regulation that the plaintiff is not allowed to correspond with other prisoner's in other facility's. there is basically no way the plaintiff can fulfill this avenue. as well research into matter's of the Biloxi task force, police dpt and their practice's of conducting

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Violent Shakedown's with the County Jail as well their related uses to deadly weapons and their policy and procedure independant to the Jail's policy and procedure. these Issue's require person's to Contact and possibly pay for related material, the plaintiff can't do neither. Seriously preJudicing his Claim.

A immediate preJudice arise's where a inmate prisoner currently incarcerated in the Dept of Correction's who is a related person and eye witness to a specific abuse in this action is soon to be released on an exspired sentance. He will leave this State to go back Home in New York. placing the Case in danger by losing the witness and his eye-witness account. PreJudicing the plaintiff's Case with irreparable damage.

D.) The amount of evidence Consisting in large part of Conflicting testimony.

At this point in the Case there is a great amount of evidence Consisting in large part of Conflicting ~~testimony~~, that evidence Currently rest only in the testimony Conflicting of Aprox 18 defendant's, myself and produced witness this is overwhelming to the plaintiff where he has never Cross examined nor wacked any seal amount of Cross examine to know how to effectively pursue a line of examination to produce fact's of truth. also the plaintiff has no means to gain this exspiance whatsoever.

V

The defendant's would not be preJudiced in any way if the Court appointed Counsel, like wise, The plaintiff will be preJudiced if an attorney is not appointed.

VI

The plaintiff close not base this motion, Claim and Contentions with any thought that he may have the right to appointment of Counsel. He is definately aware that the appointment of Counsel stand's Solely as a privilege and not as a right. he proceed's praying that he has presented sufficient fact's and Circumstance's to the Court that it see's fit that the plaintiff should be granted his privilege to appointment of Counsel.

VII

With all above stated the plaintiff does state that the defendant's have already proceeded in discovery requesting that the plaintiff disclose document, List of witnesses to present at trial.

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The plaintiff is not in a position to offer all of his material until he is finished with his independent research and investigation as well when he completes his discovery.

VIII

In the event the Court does not grant the plaintiff a privilege of appointment of Counsel, The plaintiff will need to proceed with securing processes that will enable him to contact with his necessary witnesses, mainly those incarcerated in the miss. Dept of Corrections and otherwise other area's outlined in this motion so he can acknowledge who he intends to provide at trial as well as other documentation.

The plaintiff will do his best to not inconvenience the Court at the same time secure what is necessary to fulfill his need's to present the Matter.

IX

Wherefore premises Considered the plaintiff respectfully pray's this Honorable Court reconsider the previous imposed decision and grant the plaintiff a privilege of appointment of Counsel.

Respectfully Submitted.

Armstrong Knight.

M.W.C.F.

P.O.B. 528

Columbia, ms, 39429.

Prepared by the plaintiff Armstrong Knight.

Armstrong Knight.

Signed

July 27th 2005.

Date.

Exhibit

A-1.

Affidavit, facts and Circumstances

I, Armstrong J. Knight do hereby swear under the penalty of perjury that the below is true and correct.

I, Armstrong J. Knight am incarcerated at Marion Walthall Correctional facility. The facility does not have any operating or usefull means to legal material whatsoever. as well this facility does not have or provide any legally trained person's knowledgeable in law.

The facility does not have or provide Any: Case law, miss, Code Statue, Legal treatises, litigation manual or law review's.

Signed by me, Armstrong Knight, without and benefit's or threat's

Armstrong Knight

Signature

7-22-05

Date

Mississippi Department of Corrections
Inmate Legal Assistance Program Request Form

I. Identification of Inmate: Name _____ Date _____
 MDOC# _____ Unit _____ Zone _____ Bed _____
 Custody Level: A B C D PC AS Work Assignment & Hours _____

II. Type of Assistance Requested:

a. Packet on Post-Conviction Collateral Relief

1. First Step (basic information on when and how to file)
 2. Second Step (first step must be completed prior to this request)

b. 42 U.S.C.A. 1983 Form (designate Northern or Southern District)

You must provide the nature of the complaint and have completed the ARP process (updated the ARP)

c. 28 U.S.C.A. 2254 Habeas Corpus Form (Northern or Southern District)

d. Need to review policy on _____

IN ORDER TO REQUEST SERVICES BELOW THIS LINE, YOU MUST PROVIDE THE CAUSE NUMBER OF YOUR ACTIVE CASE:

d. Conference because I cannot read or write: (Please provide a short description of your question)

(Does not apply to me)

e. Conference because:

1. I need clarification on a certain area of the law:

(Provides pre-created packets regarding Criminal law only.)

2. My case has advanced to a point where I cannot proceed alone: (list last action taken)

(Refers me to speak to this facility's Staff)

3. I need emergency assistance in meeting a deadline on (date)

(If you are requesting immediate access to the legal assistance program, prior to your regularly scheduled day, you must present paperwork verifying the deadline and inform your tower officer.)

f. Copy of Cited Case(s):

a. *(order here and reverse side)*

b.

c.

g. Copy of Statute(s):

h. Rules of Court:

i. Supplies: Pen _____ Paper _____

j. Copies (list document to be copied) _____

k. Mail Services: _____

l. Notary Services: (ID required) List document to be notarized: _____

By my signature affixed below, I acknowledge that MDOC Policy 20.01, effective 12/15/97, provides reasonable access of Inmates to the Courts which may be used to initiate legal actions pertaining to my sentence and/or confinement within written prescribed security and conduct limits.

I understand that any disruptive behavior will result in my immediate removal from the Legal Assistance office. Further, I understand a rule violation report may be filed against me as a result of any disruptive behavior, use of profane language, or attempt to access legal assistance under false pretense.

I also understand that this form must be fully completed by me unless I am unable to write. However, all requests must be signed by the person who is requesting assistance.

Signed, this the _____ day of _____, day of _____, 20_____.
(Signature)

Signature of Inmate